



*Alabama Department
of Revenue*



**Motor Fuels
Section**

Sales, Use & Business Tax Division

RULES

Motor Fuels Tax Rules as of December 29, 2003

General Rules

810-8-1-.01. Eligibility for consideration of an Applicant for a Wholesale Gasoline License.

- (1) Any person, firm or corporation that imports gasoline into the State of Alabama for distribution, storage or use must first obtain a gasoline license, or its equivalent, from the state from which the gasoline will be imported into Alabama, or
- (2) Any person who maintains 50,000 gallons of bulk storage, not at the retail level, and sells in part or in whole at wholesale, or
- (3) Any person who sells in part or in whole at wholesale to ten retail outlets, or
- (4) Any person who sells in part or in whole at wholesale and who maintained average sales of 100,000 gallons of gasoline per month during the previous calendar year.

810-8-1-.02. Fuel and Mileage Reporting in a Lessee-Lessor Arrangement will be the Responsibility of the Lessor.

The fuel and mileage reporting in a lessee-lessor arrangement will be the responsibility of the lessor. In any audit of interstate carriers subsequent to the effective date of this regulation the records of the carrier who acted as the lessor must reveal by accepted trip logs that he has correctly reported the required mileage and fuel usage on any and all trips into Alabama when he was acting as the lessor. (Sections 40-17-18 and 40-17-152) (Effective October 1, 1978)

810-8-1-.03. Interstate Motor Carrier Fuel Tax Refund.

(1) Code of Alabama 1975, Title 40, Chapter 17, Section 142, sets forth the conditions and limitations of credit allowed for the tax paid on the over-purchase of motor fuels in Alabama. Any calendar quarter in which an interstate motor carrier purchases more fuel in Alabama than is used by the carrier's vehicles on Alabama highways in that same calendar quarter, it follows that the carrier must purchase less fuel in some surrounding state or states than is used in that state or states in that same calendar quarter. The over-purchase situation in Alabama makes it necessary for the interstate motor carrier to pay taxes to the state or states of under-purchase of fuel on which taxes were paid to Alabama at time of purchase. This creates dual taxation.

(2) The above condition causes the interstate motor carrier to be in a position to obtain a credit and/or refund for the overpayment of such tax payment provided the carrier furnishes proof of the following:

(a) When applying a credit against a tax liability, the proof must be a copy of a fuel tax return from the state or states to which the payment is made certified by either the appropriate state or states or by the motor carrier and a copy of the records, computer print-outs, lists, etc., of Alabama over the road fuel purchases and/or withdrawal of fuel from storage in Alabama. The certification by the motor carrier must be in the form of a notarized affidavit and must read "under penalties of perjury, I declare that the information provided in the accompanying schedules is true, correct and complete to the best of my knowledge and belief."

(b) When applying for a refund the proof of payment must be a copy of a fuel tax return from the state or states to which the payment has been made and a copy of the records, computer print-outs, lists, etc., of Alabama over the road fuel purchases and/or withdrawal of fuel from storage in Alabama. The application for refund must be notarized and must be signed by the person preparing the application. The person who signs the application for refund must be an authorized representative of the motor carrier. The notarized statement will be in lieu of certified copies of fuel tax returns from other states and shall read "under penalties of perjury, I declare that the information given in the application for refund and in accompanying schedules are true, correct and complete to the best of my knowledge and belief."

(3) The overpayment referred to in paragraph 2 above must be paid to the other state or states in the same calendar quarter in which the over-purchase situation existed in Alabama. The credit and/or refund made will be only to the extent of that tax paid to Alabama, but will in no case exceed the rate of tax applicable in Alabama. If the interstate motor carrier furnishes proof of payment as indicated above, such carrier can use that credit against a subsequent fuel tax liability occurring in any of the three succeeding calendar quarters, or, upon proper application, a refund can be made to the interstate motor carrier within three years.

(Sections 40-17-152, 40-17-18, and 40-17-142)(Readopted through APA effective October 1, 1982, amended December 24, 1993.) History: Original author and adoption date unknown; readopted through APA effective October 1, 1982; amendment filed with Legislative Reference Service January 17 1986; amendment filed June 10, 1987; Dwight W. Pridgen, Chief, Natural Resources and License Tax Division; Amendment filed December 14, 1987, Author Verlon R. Frost. Filed with LRS September 10, 1993. Certification filed with LRS November 19, 1993, Effective December 24, 1993.

810-8-1-.05. Motor Fuel Marker Enforcement.

(1) By virtue of the authority granted to the Commissioner of the State Department of Revenue under the provisions of Title 40, Chapter 17, Section 150, and Title 40, Chapter 17, Section 152, Code of Alabama 1975, and otherwise by law, and whereas, it being the opinion of the Commissioner of Revenue that a regulation is necessary to establish clear and consistent requirements for the display of Motor Fuel Identification Markers issued under the provisions of Title 40-17-150, it is hereby declared that commencing February 1 of the calendar year 1981, Motor Fuel Identification Markers will be displayed as follows:

(a) The Motor Fuel Identification Marker must be permanently affixed to the outside upper one-half of the metal portion of the left vehicle door, on the driver side, immediately beneath the window. It will not be valid if displayed on any other portion of the vehicle, or if it is not permanently affixed. Buses will display markers on the outside on the metal portion immediately beneath the window on the driver side.

(2) Operators of motor vehicles with motor fuel identification markers not permanently affixed or displayed on any area of the vehicle other than that prescribed above, shall be deemed in violation of Title 40-17-150, Code of Alabama 1975, and each such failure or violation shall constitute a misdemeanor; and, upon conviction, any person who violates Title 40-17-150 shall be punishable by a fine of not more than \$300.00 as set forth in Title 40-17-155, Code of Alabama 1975. Each such violation shall constitute a separate offense.

(Sections 40-17-150 and 40-17-152)

810-8-1-.05.01. IFTA Motor Fuel Marker/License Enforcement.

(1) By virtue of the authority granted to the Commissioner of the State Department of Revenue under the provisions of Title 40, Chapter 17, Section 150, and Title 40, Chapter 17, Section 271, Code of Alabama 1975, and otherwise by law, and whereas, it being the opinion of the Commissioner of Revenue that a regulation is necessary to establish clear and consistent requirements for the display of the International Fuel Tax Agreement (IFTA) Motor Fuel Identification Markers/License issued under the provisions of Title 40, Chapter 17, Section 271, it is hereby declared that commencing July 1, 1996, the Alabama Department of Revenue will adhere to the following provisions of the International Fuel Tax Agreement regarding the display of IFTA decals and license:

(a) Each licensee shall be issued one IFTA license. The licensee is required to make legible copies of the license so that one copy shall be carried in each vehicle. A vehicle will not be considered to be operating under this Agreement unless there is a copy of the license in the vehicle. Each licensee shall also be issued a minimum of two vehicle identification decals for each qualified vehicle in its fleet. The identification decals must be placed on the exterior portion of both sides of the cab. In the case of manufacturers, dealers, or driveaway operations, the decals need not be permanently affixed, but must be temporarily displayed in a visible manner on both sides of the cab. A temporary permit may be carried in the cab in lieu of the permanent decals for a 30-day period.

(2) Operators of motor vehicles not in compliance with the provisions of IFTA, regarding the display of decals and licenses, shall be deemed in violation of Title 40, Chapter 17, Section 150, and Title 40, Chapter 17, Section 271, Code of Alabama 1975, and each such failure or violation shall constitute a Class B misdemeanor; and, upon conviction, any person who violates the aforementioned code sections shall be punished by a fine of not more than \$1,000.00 and/or imprisonment of not more than six months as set forth in Title 40, Chapter 17, Section 155, Code of Alabama 1975. Each such violation shall constitute a separate offense.

(Sections 40-17-150 and 40-17-271) History: Filed with LRS February 20, 1996. Certification filed with LRS May 9, 1996, effective June 13, 1996.

810-8-1-.07. IMC Fuel Permit Fees.

(1) By virtue of the authority granted to the Commissioner of the State Department of Revenue under the provisions of Title 40, Chapter 17, Section 150, as amended by Act No. 94-586, and whereas, it being the opinion of the Commissioner of Revenue that a regulation is necessary to establish Annual Fees, it is hereby declared that commencing October 1, 1994 the fees charged for fuel identification markers and trip permits for all qualified motor vehicles as defined in Act No. 94-586* are as follows:

(a) Every Alabama IFTA-based carrier and non-IFTA-member jurisdiction carrier shall, for all qualified motor vehicles traveling in Alabama, pay a fuel identification marker fee covering the administrative costs of issuing the fuel markers. The fuel identification marker fee will be \$4.50 per vehicle. The fee will be adjusted annually as administrative costs change.

(b) Those carriers who operate a qualified motor vehicle in Alabama without the required fuel identification markers are required to purchase a trip permit, not exceeding seven days, for a fee, equal to the fuel identification marker fee mentioned in Section (a) above, for each permit issued. Drivers must furnish proof of purchase of fuel in all cases.

(2) Operators having only occasional or infrequent trips may obtain temporary seven-day fuel permits by either of two methods:

(a) Remit the current fee and required information to either the Alabama Department of Revenue Service Center(s) or the Natural Resources and License Tax Division, License Section.

(b) Transmit the current fee thru wire permitting services with the permit being furnished to the driver at point of transmission.

(3) *Act No. 94-586 defines a qualified motor vehicle as a vehicle designed, or maintained for transportation of persons or property, except recreational vehicles, and which meets any of the following:

(a) Has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 12,000 kilograms.

(b) Has three or more axles regardless of weight.

(c) Is used in combination, when the weight of the combination exceeds 26,000 pounds or 12,000 kilograms gross vehicle weight or registered gross vehicle weight.

Note: If the provisions set forth in the IFTA agreement are amended in the future and conflict with the provisions of Alabama law or any rules and regulations promulgated by the commissioner, then the agreement provisions would prevail.

(Sections 40-17-152, Code of Alabama 1975) (Adopted through APA effective December 28, 1994, amended June 3, 1996.)
History: Filed with LRS September 21, 1994. Certification filed with LRS November 23, 1994, effective December 28, 1994.
Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.08. Miles Per Gallon Standard.

(1) The following procedure will be used where it is necessary to ascertain in the administration and enforcement of the motor fuels and gasoline laws of this state the amount of motor fuel or gasoline which is used to propel any motor vehicle over the public roads and highways of Alabama in order to determine the amount of excise tax due on such motor fuels, and where it is impossible to accurately gauge or measure said amount in gallons, the following allowances and measurements shall be used:

(a) Transport truck - three and four axle -four miles per gallon.

(b) One and a half ton truck - two axle - eight miles per gallon.

(c) Pickup or service truck - ten miles per gallon.

(d) Passenger cars - fifteen miles per gallon.

(2) This regulation shall include all persons who pull fuel directly from cargo tank to carburetor whether such travel is intra or inter state, and shall include all fuels where withdrawals are made directly from cargo tank to the motor of said vehicles for the purpose of propelling said vehicles over the highways of this state.

(3) Where such allowances and measurements have heretofore been used by the State Department of Revenue in the administration and enforcement of said laws, prior to the effective date of this regulation, then such procedure is hereby ratified and approved.

(Sections 40-17-18 and 40-17-152, Code of Alabama 1975) (Amended February 1, 1961, Amended June 3, 1996.) History: Amended February 1, 1961. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.09. Purchase Invoice Requirements.

Fuel purchase invoices and/or delivery tickets covering Alabama purchases must show the following:

- (a) Date of sale.
- (b) Name and address of vendor, machine printed or credit card with card imprint.
- (c) Name of licensee.
- (d) Number of gallons.
- (e) Type of fuel.
- (f) Signature of purchaser.
- (g) Company unit number or vehicle license number.
- (h) Original invoice will be required except in case of credit card purchases.

(Section 40-17-18.)

810-8-1-.10. Quarterly Fuel Tax Return to be Filed with the Department of Revenue.

Every motor carrier is required to file a quarterly fuel tax return with the Department of Revenue, including therein a true mileage and fuel usage record of all those vehicles for which that carrier has obtained annual fuel markers.

(Sections 40-17-18 and 40-17-152, Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.11. Gasoline Tax Regulation - Stated and Uniform Policy Pertaining to the Exemption of Certain Organizations from State Gasoline Taxes.

(1) With respect to gasoline taxes which are required by law to be added to the price of the gasoline and which are paid over to the State by the Distributor and not by the consumer, those organizations exempt from such tax under the provisions of Title 40, Code of Alabama 1975, shall pay the appropriate tax at time of purchase and the amount of such tax shall be refunded to such organizations on a quarterly basis.

(2) Request for such refund shall be made on forms furnished by the Department of Revenue, properly attested to, and containing such information as the Department may deem necessary.

(Section 40-17-18, Code of Alabama 1975) (Effective May 1, 1976, amended June 3, 1996.) History: Effective May 1, 1976. Amendment filed December 14, 1987. Filed with LRS April 22, 1993. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

MOTOR FUEL TAX
Article 1
General Provisions and Imposition of Tax

810-8-1-.15. Additional Motor Fuel Tax Rate.

An additional motor fuel excise tax was enacted effective August 1, 1980. This additional tax rate is four cents (0.04¢) per gallon.

The imposition and payment of this additional tax parallels the original eight cents a gallon which was increased to thirteen cents (0.13¢) a gallon on June 1, 1992. (Sections 40-17-18, 40-17-221(b) and 40-17-220, Code of Alabama 1975) History: Filed with LRS April 22, 1993. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-16. Summary of Tax Rates for Motor Fuels used in Motor Vehicles for Highway Operation.

- (1) Prior to August 1, 1980, the tax rate was eight cents (0.08¢) per gallon.
- (2) Effective August 1, 1980, an additional tax of four cents (0.04¢) a gallon was levied.
- (3) Effective August 1, 1980, the total tax on motor fuel amounts to twelve cents (0.12¢) per gallon.
- (4) Effective June 1, 1992, the tax rate was increased by .05¢ per gallon. The total tax on motor fuel amounts to seventeen (0.17¢) per gallon.

(Sections 40-17-18 and 40-17-2, Code of Alabama 1975) History: Filed with LRS April 22, 1993. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

MOTOR FUEL TAX
Article 2
Exemptions

810-8-1-17. Dyed Motor Fuel for a Motor Vehicle used Exclusively "Off the Highway".

- (1) The excise tax does not apply with respect to dyed motor fuel which the user establishes to the satisfaction of the Department is used in the exclusive operation of a motor vehicle "off the highway".
- (2) "Off the highway" includes private property, a way or place permanently or temporarily closed to public use for the purpose of vehicular travel.
- (3) "Off the highway" motor vehicle is any vehicle which presently does not have to be registered for highway use.
- (4) A motor vehicle displaying a license plate from this state or any other state is presumed to use motor fuel exclusively for use on the highways of this state and the excise tax will apply. When a vehicle licensed by this state is permanently withdrawn from highway use for exclusive "off the highway" use, license plates must be removed from the vehicle or the excise tax will apply.
- (5) A public highway or highway consists of every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle located either within a municipality or in unincorporated territory, and laid out or erected as such by the public or dedicated or abandoned to the public or intended for use by or for the public. The term "Public Highway" shall apply to and include driveways upon the grounds of universities, colleges, schools and institutions.
- (6) A motor vehicle is operated upon the highway if it moves any distance upon the paved or unpaved portion of the highway. A vehicle is not considered operating on the highway when the vehicle merely crosses the highway from private property on one side to private property directly on the other, and the vehicle is not operated for any distance in the general direction of the highway in making the crossing.
- (7) Examples of "off the highway" use are:
 - (a) Motor vehicles operating exclusively in a coal pit.
 - (b) Motor vehicles operating exclusively on a highway construction site closed to public use.
 - (c) Motor vehicles operating exclusively on private property within the confines of a plant.
- (8) A motor vehicle cannot be designated for both "highway" and "off the highway" use. The exemption from tax applies to motor vehicles used exclusively "off the highway."
- (9) Any user claiming exemption from excise tax for "off the highway" use shall accurately maintain adequate records to show the operations claimed to be exempt.
- (10) Adequate records substantiating exclusive "off the highway" use shall contain the following documentation:

- (a) Make, model, number designation of the vehicle, e.g., Ford Dump Truck, Number 102.
- (b) Specific area of motor vehicle operation, e.g., plant area only.
- (c) Daily log showing distance travelled and amount of fuel used by the motor vehicle.

(Sections 40-17-18 and 40-17-221(b), Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.19. Tax-Free Sales of Motor Fuel.

(1) The excise tax does not apply to a sale of motor fuel when:

- (a) The purchaser is a distributor or supplier who has obtained a motor fuels or gasoline license from the Commissioner of Revenue under Section 40-17-14 to purchase motor fuel less tax and assume full responsibility for the payment of the tax, or
- (b) The motor fuel is indelibly dyed and chemically marked in accordance with regulations issued by the Secretary of the Treasury of the United States under 26 U.S.C. 4082.

Sections 40-17-18 and 40-17-14, Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.20. Motor Fuel Sales to the United States.

Sales of motor fuel to the United States, its agencies and instrumentalities including units of the National Guard are exempt from the excise tax. (Sections 40-17-18 and 40-17-31(b))

810-8-1-.21. Undyed Motor Fuel Used Exclusively for "Off-Road Vehicles" and "Off-Road Equipment".

(1) The use of undyed motor fuel on which the tax has been imposed and paid shall be exempt from the tax imposed and the user shall be entitled to a refund for the following use:

- (a) Vehicles used exclusively "off-the-highway" as referenced in Regulation 810-8-1-.17(7).
- (b) "Off-road equipment" uses motor fuel for a purpose other than the generation of power to propel a motor vehicle on a highway.

"Off-road equipment" includes the following:

1. SELF-PROPELLED EQUIPMENT such as tractors, bulldozers, mobile cranes, vessels, barges, ships, and
2. STATIONARY EQUIPMENT such as generators, boilers, reefers, and heating units.

(Sections 40-17-18, 40-17-2, 40-17-14 and 40-17-220, Code of Alabama 1975.) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.22. Exemptions Pertaining to the Additional Excise Tax on Gasoline, Motor Fuel and Lubricating Oil.

(1) The additional excise tax of four cents (0.04¢) effective August 1, 1980, does not apply with respect to that gasoline and lubricating oil which the licensed distributor establishes to the satisfaction of the Department as being:

- (a) Sold to the United States.
- (b) Used to propel aircraft powered by reciprocating engines.
- (c) Used to propel ships, vessels, barges, railroad locomotives, and other railroad equipment.
- (d) Sold for agricultural purposes. The additional excise tax applies for gasoline and lubricating oil used in motor vehicles travelling the highways of this state although engaged exclusively in agricultural purposes, or only incidentally

operated upon a highway in moving between farms or parts of farms contiguous or in close proximity.

(e) Sold to governing bodies of counties and incorporated municipalities.

1. The governing body of a county or incorporated municipality is that body of the county or incorporated municipality which performs the legislative function and has the ultimate power to determine the policies of the county or incorporated municipality and control the activities of the county or incorporated municipality.

2. Governing bodies of counties and incorporated municipalities exempt from the additional excise tax include county commissions and city councils or city commissions or town councils.

3. Sales claimed by the licensed distributor as being made to a governing body of a county or incorporated municipality for highway use must be supported by invoice or other documents specifically billed to that governing body. It is further required that payments be made directly by the governing body. Any questionable sales may be substantiated or disallowed by determining whether payment for the gasoline or lubricating oil is made from an account controlled solely by the governing body of the county or incorporated municipality.

(f) Used in off-road vehicles which presently do not require state licensing; specifically, but not limited to, forklifts and other like devices not for use on the streets and highways of this state.

(g) Sold to city and county boards of education.

(h) Sold to private and church school systems, the Alabama Institute for Deaf and Blind, and the Department of Youth Services.

(2) Effective October 1, 1995, the additional excise tax of four cents (\$0.04) does not apply to the following sales of motor fuel by licensed distributors:

(a) Motor fuel sold to the United States,

(b) Motor fuel used to propel aircraft powered by jet or turbine engines,

(c) Motor fuel sold to governing bodies of counties and incorporated municipalities,

(d) Motor fuel sold to city and county boards of education,

(e) Motor fuel sold to the Alabama Institute for Deaf and Blind, the Department of Youth Services school district, and to private and church school systems,

(f) Motor fuel sold as kerosene for lighting or heating purposes,

(g) Motor fuel that is sold from one Alabama licensed distributor to another Alabama licensed distributor,

(h) Motor fuel which is exported by a licensed distributor, and

(i) Motor fuel that is used for off-road agricultural purposes on the farm. (Only if dyed motor fuel is unavailable.)

(Sections 40-17-220, 40-2-11, 40-17-18, 40-17-221(a), 40-17-221(b), and 40-17-221(c), Code of Alabama 1975) History: Adopted August 21, 1986. Amended December 14, 1987. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 26, 1996, effective May 31, 1996.

810-8-1-.24. Credit Card Sales at Retail Outlets to Exempt Entities.

(1) For the purpose of this regulation, governing bodies of counties, incorporated municipalities, boards of education, the Alabama Institute for Deaf and Blind, the Department of Youth Services school district, and private and church school systems, which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state, shall be known as the "exempt entity." In addition, a licensed distributor is that person, copartnership, firm, corporation, or association that has a valid Alabama Gasoline or Motor Fuel License.

(2) A licensed distributor may claim a credit, on the monthly excise tax return, for the number of gasoline or motor fuel gallons sold by a retail outlet to the exempt entity provided the following conditions are met:

(a) Pursuant to a contract with the licensed distributor, the retail dealer supplies tax-paid gasoline or motor fuel to the exempt entity, where such transaction is charged to a credit card issued by a licensed distributor,

(b) The retail dealer is paid all applicable excise taxes along with the price of the gasoline or motor fuel by the licensed distributor,

(c) The exempt entity receives gasoline or motor fuel from a retail dealer pursuant to a contract it has executed with the licensed distributor and pays the licensed distributor for the product, net of tax,

(d) The licensed distributor sells sufficient quantities of gasoline or motor fuel for which the tax is due to be remitted directly to the Department of Revenue during the reporting month to offset the quantities of tax-paid gasoline or motor fuel sold to the exempt entity through a retail dealer.

(3) A licensed distributor meeting the above conditions is deemed to have sold tax-free gasoline or motor fuel directly to the exempt entity and may claim a credit for the number of gallons sold on its monthly excise tax return.

(4) At no time shall the deemed tax-free gallons sold exceed the actual other tax-paid gallons sold for the reported month. The credit claimed for deemed tax-free gallons may not be carried back and/or forward to any month. It must be reported for the month of the actual sale to the exempt entity.

(Sections 40-2A-7(a)(5) and 40-17-18, Code of Alabama 1975.) Effective August 14, 2003.

810-8-1-.25. Summary of the Rates applying to State and Local Government.

(1) The excise tax applies at the following rate to state and local governments:

(a) State of Alabama and its political subdivisions	
Prior to August 1, 1980	Eight cents a gallon
Beginning August 1, 1980	Twelve cents a gallon
Beginning June 1, 1992	Seventeen cents a gallon
(b) Governing bodies of counties and incorporated municipalities	
Prior to August 1, 1980	Eight cents a gallon
Beginning August 1, 1980	Eight cents a gallon
Beginning June 1, 1992	Exempt
(c) City and county boards of educations	
Prior to August 1, 1980	Eight cents a gallon
August 1, 1980 to June 30, 1981	Twelve cents a gallon
Beginning July 1, 1981	Eight cents a gallon
Beginning August 8, 1991	Exempt
(d) Local governmental entities not included in item (b), for example, Water and Sewer Boards or Utility Boards	
Prior to August 1, 1980	Eight cents a gallon
Beginning August 1, 1980	Twelve cents a gallon
Beginning June 1, 1992	Seventeen cents a gallon

(Sections 40-17-18, 40-17-2, 40-17-220 and 40-17-221(b), Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.25.02. Permit Issued to Pay Lubricating Oil Tax Directly to the Department of Revenue.

(1) Whereas, Section 40-17-220, Code of Alabama 1975, levies an additional \$.04 per gallon tax on lubricating oil and expressly exempts from this additional levy certain designated users of lubricating oil, and

Whereas, it is impossible in many instances to determine at the time of sale/purchase of such lubricating oil the applicable rate of tax, and

Whereas, it being the opinion of the Commissioner of Revenue that certain clarifying, reasonable rules and regulations need to

be adopted, and

Whereas, The Commissioner of Revenue is empowered by Section 40-2-11, Code of Alabama 1975, to supervise and control the administration of the various tax laws of the State of Alabama.

IT IS THEREFORE ORDERED that the following be adopted.

(2) Any person, distributor, storer, retail dealer, user, or user who sells to others, unable to ascertain at the time of purchase, transport, delivery, storage, or sale of lubricating oil the applicability of the additional \$.04 per gallon tax may apply for a permit. This permit will allow the holder to purchase lubricating oil free of all lubricating tax and pay such taxes directly to the Department of Revenue.

(3) Application for lubricating oil permit will be made upon forms prepared by the Department. Upon receipt and approval of the application by the Department, a lubricating oil numbered permit will be issued to the applicant with a supply of monthly lubricating tax returns.

(4) The lubricating permit holder shall purchase all lubricating products tax free and is not required to remit to the seller the \$.02 per gallon tax levied in Section 40-17-171 or the additional \$.04 per gallon tax levied in Section 40-17-220. Permit holder must furnish to each vendor from whom lubricating oil is purchased the assigned permit number.

(5) The lubricating permit holder is required to file a lubricating tax return for each month on a form prescribed by the Department. A return must be filed with the Department even though no lubricating oil is purchased, distributed, sold, used, or tax is due. The return is due on or before the twentieth (20th) day of each calendar month being a true and correct statement of the information required on the return for the next preceding calendar month.

(6) The monthly lubricating tax return shall be prepared in duplicate. The original accompanied by a remittance payable to "State of Alabama" for the amount of tax shown to be due shall be filed with the Department and the duplicate shall be retained by the permit holder. Failure to receive a return form does not relieve the permit holder from the obligation of making a return on or before the due date.

(7) As respects the lubricating permit holder's tax reporting, the tax is deemed to have been collected at the time of the sale irrespective of when payment for the amount of the invoice including the tax is received by the permit holder. Failure to collect the tax from the purchaser does not relieve the permit holder from this liability to pay the Department the amount of the tax to be collected.

(8) The lubricating permit holder must keep records to substantiate any item appearing on the monthly lubricating tax return. Records must be maintained in a form satisfactory to the Department and shall be made available for inspection or audit by the Department. Records must be retained by the permit holder for a period not less than three years.

(9) The lubricating permit holder conducting business at different locations requires only one permit, if monthly lubricating tax returns are prepared at one central location.

(10) A lubricating permit holder claiming sales or use of lubricating oil exempt from the additional \$.04 per gallon as enumerated in Section 40-17-220(d), (3) through (6) must exercise reasonable care to assure that lubricating oil will be so used. Each exempt sale of lubricating oil must be supported by a copy of the original invoice showing invoice number, date, number of gallons, and the correct name and address of the purchaser. A user of lubricating oil must keep records substantiating the exempt use.

(11) The lubricating permit is a personal privilege and is not transferable. The permit may be cancelled by the Department upon notice by registered mail to the holder thereof.

(12) Vendors of lubricating oil must maintain a file of permit holders names and numbers to substantiate tax free sales of lubricating oil to permit holders. Vendors selling tax free lubricating oil to non-permit holders could incur liability for the tax due.

(13) Violations of these regulations carry the same penalties as are prescribed for violations of the law itself.

(Adopted through APA effective October 17, 1985, amended December 14, 1987)

MOTOR FUEL TAX
Article 3
License

(1) A distributor is defined as any person who acquires ownership of motor fuel directly from a supplier at or from a barge, barge line, pipeline terminal, terminal, refinery, or imports motor fuel into this state. The procedure for obtaining a motor fuels license includes making application and obtaining a surety bond as described below:

(a) A distributor makes application for a license upon forms prepared by the department for a license.

(b) The application is accompanied by a filing fee of five dollars (\$5.00).

(c) Upon receipt and approval of the application by the department, the distributor is notified by the department of the amount of the surety bond along with forms prepared by the department for obtaining the bond.

(d) Upon the department's receipt of the bond, a motor fuels license will be issued to the distributor with a supply of monthly motor fuels reports.

(2) Minimum surety bonds as in paragraph (c) above are one thousand dollars (\$1,000.00); however, the commissioner has discretion to require any additional amount of bond to assure the collection from the distributor of all excise taxes due the state.

(3) A guide for determining the amount of a surety bond is the number of gallons of undyed motor fuel received each month and therefore subject to excise tax shown as an estimate on a distributor's application for a motor fuels license. Computation of a bond's value uses a formula doubling estimated receipts:

Estimates of monthly taxable gallons x excise tax rate x 2 = amount of bond (not less than \$1,000.00).

(4) A licensed distributor conducting business at different locations requires one license, if corporate offices where monthly motor fuels reports are prepared are at the same location.

(5) The following licenses allow a distributor to purchase tax-free motor fuel and to sell or distribute motor fuels to others:

(a) Motor fuel license designated by letters "MF" permits the tax-free purchase, sale and distribution of motor fuel only.

(b) Gasoline license designated by the letter "G" permits the tax-free purchase, sale and distribution of gasoline, aviation fuel, and motor fuel.

(6) The license is a personal privilege and is not transferable.

(Sections 40-17-18, 40-17-2, 40-17-14, 40-17-221(b) and 40-17-152, Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.29. Deposits in Lieu of Surety Bonds.

(1) A distributor may, in lieu of posting a surety bond, deposit with the division any of the following in amounts equivalent to the amount of bond fixed by the department:

(a) United States government coupon bonds having a market value not less than the amount of bond required. A coupon bond is a negotiable bond with interest coupons attached.

(b) Coupon bonds of the state of Alabama having a market value not less than the amount of bond required.

(2) The deposit must be sent directly to the Natural Resources and License Tax Division with advice that such deposit has been made.

(Sections 40-17-18, 40-17-221(b) and 40-17-14.)

810-8-1-.31. Sale.

Sale shall mean and include in addition to its ordinary meaning and usage, any barter, exchange, gift or other disposition. In every case where motor fuel is sold, bartered, exchanged, given away or otherwise disposed of, such motor fuel shall be determined to have been sold. (Sections 40-17-18, 40-17-221(b) and 40-17-2.)

810-8-1-.47.01. Dyed Motor Fuels Sold for Exclusive Off-Road Use.

(1) The Department of Revenue will permit the tax free sale of dyed motor fuels exclusively for off-road use under the following conditions:

(a) Dispensing equipment shall be marked, "DYED DIESEL FUEL - NONTAXABLE USE ONLY - PENALTY FOR TAXABLE USE."

(b) Any distributor selling dyed motor fuels exclusively for off-road use to a retail outlet must issue an invoice for each sale. Invoices issued for each sale shall contain the invoice number, date of sale, number of gallons, and the correct name and address of each purchaser. The following statement must appear on the front of each invoice: "Dyed Diesel Fuel, Non-Taxable Use Only-Penalty for Taxable Use".

(Section 40-17-18, Code of Alabama 1975) History: Emergency regulation filed with LRS June 12, 1992, effective June 12, 1992. Notice filed with LRS July 22, 1992. Certification filed with LRS October 23, 1992, effective November 27, 1992. Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.48. Termination of License.

(1) Whenever any license holder terminates business within this state by reason of the discontinuance, sale, or transfer of the business, such license holder is required to submit the following to the department:

(a) Notification in writing at least ten days prior to the time the discontinuance, sale or transfer takes effect. Such notice shall include (1) the date of discontinuance, sale or transfer; (2) if applicable, name and address of the purchaser or transferee; and

(b) At the same time the distributor's business is terminated, a "final" motor fuels report should be filed paying all excise tax, penalties and interest owed to the State for undyed motor fuel received and also file, if applicable, a "final" wholesale oil license statement for the period involved, paying any tax due; and

(c) The distributor must return to the Department the gasoline or motor fuels license.

(2) The license holder should notify the bonding company to request cancellation of his or her bond.

(Sections 40-17-18 and 40-12-197, Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.49. Revocation of License.

(1) Revocation of a motor fuels license could occur due to the following:

(a) Failure to file monthly reports on or before the due date.

(b) Failure to remit the excise tax on or before the due date or the remittance is not covered by sufficient funds.

(c) Failure to maintain a current bond.

(d) Violation of the motor fuel laws or rules and regulations promulgated to enforce or administer such laws.

(e) According to the Federal Bankruptcy Act.

(2) The department's procedure for revocation of a license must include:

(a) Written notice to the license holder in which the holder is allowed thirty days to file a notice of appeal with the Department,

(b) If the license holder fails to file an appeal within the thirty day period, the license is revoked and the holder's suppliers of motor fuel are so notified.

(Sections 40-17-18, 40-12-192 and 40-17-15, Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

MOTOR FUEL TAX
Article 4
Returns and Payments

810-8-1-.51. Denial of License.

(1) An applicant can be denied a motor fuels license under the following circumstances:

- (a) Any applicant who is in arrears or default to the state for any taxes.
- (b) Any applicant whose license has previously been cancelled.
- (c) Any applicant filing an application not in good faith or the application is filed as subterfuge for the real person in interest.

(Sections 40-17-18, 40-12-192, 40-12-196, 40-17-221(b), Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.52. Returns and Payments, Monthly Report of Distributors.

(1) Each licensed distributor of motor fuel is required to file a report for each month on a form prescribed by the Commissioner. A return must be filed with the department even if no excise tax is due. The report is due on or before the twentieth (20th) day of each calendar month being a true and correct statement of the information required on the report for the next preceding calendar month. The monthly report will be sworn to (notarized) before some officer authorized to administer oaths, and any fraudulent statement sworn to will constitute perjury.

(2) The monthly report will be prepared in duplicate. The original accompanied by a remittance payable to "State of Alabama" for the amount of tax shown to be due shall be filed with the Department, and the duplicate shall be retained by the distributor. Failure to receive a report form does not relieve the distributor from the obligation of making a report on or before the due date.

(Sections 40-17-18, 40-17-221(b), 40-17-5, and 40-17-6, Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.55. Purchase Records of a Licensed Distributor.

(1) A licensed distributor shall maintain complete records of inventories, purchases, receipts and tank gaugings or meter readings.

(2) Every distributor must keep records of purchases showing each purchase of motor fuel products, the seller from whom each purchase was made, the commodity purchased, the date, invoice number, gallonage and value of each purchase, the method of transportation and shipping document for each delivery to the distributor.

(3) Distributor must keep records to substantiate any item appearing on the monthly report. Records must be maintained in a form satisfactory to the department and shall be made available for inspection or audit by the department.

(Sections 40-17-9, 40-17-18 and 40-17-221(b), Code of Alabama 1975) History: Amendment filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

810-8-1-.56. Sales Records of a Licensed Distributor.

(1) Every licensed distributor must keep a sales record showing each sale of motor fuel, the person to whom each sale was made and the address, the commodity sold, date and invoice number, gallonage, and value of each sale. The sales record must show the gallonage subject to excise tax and sold tax-free.

(2) The distributor shall prepare a serially numbered invoice for each sale of fuel whether the fuel is sold for highway use motor vehicles or for off-road use. A single invoice covering multiple deliveries of fuel made during a period of time not to exceed a calendar month shall constitute an invoice for each sale. If the multiple invoice includes taxed and tax-free sales, the taxed sales must be so designated. The invoice shall be delivered to the purchaser and a copy retained by the distributor.

(3) A sales invoice shall contain the following information:

(a) The name and address of the distributor,

(b) The date of sale,

(c) The name and address of the purchaser,

(d) Whether the sale is a credit or cash sale,

(e) The number of gallons of motor fuel sold, the price per gallon and the total amount of the sale,

(f) The amount of excise tax or other taxes such as sales tax charged. The amount of excise tax charged need not be shown if the price per gallon includes the tax and the invoice so states. The excise tax on motor fuel is to be paid only once by the distributor or supplier and excise tax paid motor fuel is not subject to any other excise tax levied by the state such as sales tax, and

(g) The location/destination where the fuel is delivered if other than purchaser's business address.

(4) A sales invoice from a licensed distributor showing a purchase of excise tax-paid fuel constitutes a receipt for the purchaser of excise tax included on the invoice.

(a) If a licensed distributor sells undyed motor fuel tax-free to an exempt entity, the sales invoice must contain the following statement: "FUEL SOLD AT A TAX-EXCLUDED PRICE - WE CERTIFY THAT THE DIESEL FUEL DOES NOT CONTAIN VISIBLE EVIDENCE OF DYE."

(5) A sales invoice for dyed motor fuel must contain the following statement - "Dyed Diesel Fuel, Nontaxable Use Only-Penalty for Taxable Use".

(6) Records must be maintained in a form satisfactory to the department and shall be made available for inspection and audit by the department.

(7) All excise tax exempt sales which result in a credit on the excise tax return must have adequate documentation attached to the excise tax return and must be submitted to the Department of Revenue or the exemption will be disallowed. This information must also be maintained in the distributor's or supplier's office. Examples of adequate documentation are as follows:

EXEMPTIONS

Educational and Governmental Entities

\$.04 exempt sales

U.S. Government

DOCUMENTATION

Form MFD or listing of sales

Form MFD or listing of sales

Listing of sales or invoices

If adequate documentation is not attached, the exemption will be disallowed and the distributor or supplier will be billed tax, penalty, and interest as provided for under Title 40 of the Code of Alabama 1975.

(Sections 40-17-9, 40-17-18 and 40-17-221(b), Code of Alabama 1975) (Effective June 3, 1996, amended December 13, 1999, Emergency Amendment effective January 5, 2000, expires May 3, 2000, amended May 15, 2000.)

810-8-1-.61. Penalty for Sale or Use of Motor Fuel Without Payment of Motor Fuel Tax - Dyed Motor Fuel.

(1) Any person who willfully sells for use or who willfully uses motor fuel in the operation of a motor vehicle in Alabama upon which the motor fuel tax levied by Chapter 17 of Title 40 of the Code of Alabama, has not been paid or the payment thereof assumed by a distributor licensed by the Alabama Department of Revenue, and which is not tax-exempt, shall for each failure be subject to a penalty imposed by the Department of Revenue of not less than \$100 nor more than \$10,000.

(2) The term "willfully" is defined as an intentional violation of a known legal duty.

(3) This penalty does not apply to the tax-exempt use of motor fuel for off-road. Motor fuel that is indelibly dyed and chemically marked in accordance with regulations issued by the U.S. Secretary of the Treasury under 26 U.S.C. 4082 is exempt from both federal motor fuels tax and Alabama motor fuels tax because it is for tax-exempt off-road use. With the exception of on-road use specifically provided by 26 U.S.C. 4082, such motor fuel may not be sold or used for non-exempt purposes such as in the operation of a motor vehicle on the highways of Alabama. This legal duty not to use dyed or marked motor fuel is well known because of the readily visible color of the fuel. Dyed or marked fuel found in the supply tank of a motor vehicle being operated on

the highways of Alabama is prima facie evidence of willfulness in failure to pay the proper Alabama motor fuel tax.

(4) Any person, firm or corporation who knowingly dispenses dyed or marked motor fuel into the supply tank of any motor vehicle to be used on the highways of Alabama for non-exempt purposes shall also be subject to this penalty.

(5) This penalty shall be applied so that it increases in severity with multiple offenses. For the first offense, the amount of the penalty shall be the greater of \$10 for each gallon of untaxed motor fuel involved or a minimum \$100, but not to exceed \$10,000. For each subsequent offense, the penalty shall increase an additional \$10 per gallon of untaxed motor fuel involved. For example, upon the second offense the penalty shall be the greater of \$20 per gallon or a minimum \$100, but not to exceed \$10,000. For the third offense, the penalty shall be the greater of \$30 per gallon or a minimum \$100, but not to exceed \$10,000.

(Section 40-17-22, Code of Alabama 1975) History: Filed with LRS August 11, 1995. Certification filed with LRS December 11, 1995, effective January 15, 1996.

810-8-1-.62. Motor Fuel Tax Regulation - Stated and Uniform Policy Pertaining to the Exemption of Certain Taxpayers from State Motor Fuel Taxes.

(1) With respect to motor fuel taxes which are required to be added to the price of undyed motor fuel and which are paid over to the State by the distributor and not by the consumer, those taxpayers exempt from the tax under the provisions of Title 40, Code of Alabama 1975, shall pay the appropriate tax at the time of purchase and the amount of the tax shall be refunded to the taxpayers on a quarterly basis.

(2) Request for refunds shall be made on forms furnished by the Department of Revenue, properly attested to, along with a copy of the original purchase invoices and any other information that the Department may deem necessary. The purchase invoice must show the following:

(a) Date of Sale,

(b) Name and Address of Vendor,

(c) Type of Fuel,

(d) Number of Gallons,

(e) Invoice Number, and

(f) Tax as Separate Line Item or a Statement on the purchase invoice that the State Excise Tax has been included in the price per gallon.

(3) When filing a refund petition, the claimant must submit the following information:

(a) Total motor fuel storage capacity,

(b) A listing of all on-road and off-road motor fuel powered vehicles or equipment including the vehicle identification number, tag number (if applicable), and whether it is used on-road or off-road,

(c) Date of withdrawal,

(d) Type of equipment in which the motor fuel is placed,

(e) Equipment identification number, and

(f) The number of gallons placed in the off-road vehicle or equipment.

(4) The claimant shall maintain a daily withdrawal log of all undyed motor fuel. This log should include:

(a) The date of withdrawal,

(b) The type of equipment,

(c) The equipment identification number, and

(d) The number of gallons placed in the off-road vehicle or equipment.

(Section 40-17-18, Code of Alabama 1975) History: Filed with LRS January 19, 1996. Certification filed with LRS April 29, 1996, effective date June 3, 1996.

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